



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brian F. Monahan

Serial No.: 09/808,490

For: RAPID RESPONSE MARKETING

Filed: March 14, 2001

Examiner: Johnna R. Loftis

Art Unit: 3623

**DECLARATION UNDER 37 C.F.R. §1.132**

I, Joseph Giannantonio,, a resident of San Francisco, California, U.S.A., declare as follows:

1. THAT I am a experienced advertising executive having practiced in this area as a marketing analyst for about 20 years; that I receiving a Bachelor of Science degree in Physics from the University of California - Davis ; that I am currently employed as a Vice President/ Campaign analytics by McCann Erickson WorldGroup, San Francisco, U.S.A.; that I have expertise in online and multi-media areas; and that I am currently responsible for evaluating the impact of McCann San Francisco's multi-media marketing campaign's success against Client's desired business results;
2. THAT I am technically skilled in the marketing area that is the subject of the Invention; that I am familiar with the above-identified Application for United States Letters Patent; and that I understand the Non-Final Office Action mailed 11 May 2007 pertaining thereto and the references cited therein;
3. THAT I understand that the present invention claims a unified system and method for tracking, evaluating, constantly updating and reacting interactively on an ongoing basis to individual media of multiple-media advertising campaigns measured against their ability to drive business objectives with reporting combined into a single dashboard view analyzed and optimized in real time;
4. THAT the Examiner has rejected all claims under 35 U.S.C §103(a) as being obvious and unpatentable over d'Eon *et al.* (U.S. Pat. No. 6,006,197 teaching an internet advertising performance information gathering system that measures the effectiveness of web advertisements by correlating web site impressions (clicks) with post-impression transactional activity i.e., the

purchasing of products or services advertise on the web site) in view of Robinson (U.S. Pat. No. 5,918,014 teaching the gathering of internet advertising information i.e., tracking clicks or activity on a particular Web ad to correlate such information with selecting ads for viewers with similar activities, and also teaches changing web advertisements using a rotation schedule ) and further in view of Cannon (U.S. Pat. No. 6,286,005; a pre-launch media campaign planning tool that primarily teaches the gathering of TV viewer information, directed primarily to optimizing TV delivery to certain demographic audiences; Canon also teaches the gathering of readership information for magazines, newspapers and web pages to use such information/data to plan ads for a particular viewer or viewing community; for planning of advertising campaigns);

5. THAT I agree with the following statement of Brian F. Monahan in his Declaration under 27 C.F.R. §132 regarding the state of the advertising art at the time the invention was filed in 2001:

"Internet advertising was then less than 10% of the total US advertising expenditures. As no other advertising medium is delivered and received by a computer, no other medium can census count individual delivery of ad messages, let alone the impact any one ad impression has on a the desired business objective (awareness, perception change, sales, etc). The state of the art of crafting a multi-media advertising campaign was to target the advertising to the most desired group of people. At the end of a time period, usually three (3) months, the campaign would be evaluated to see how well it was believed to be reaching the target audience. If that flight of advertising generally corresponded with positive business results, the campaign would be refined to better deliver the target audience and continued. Businesses have progressively used advances in technology to get a more instantaneous read on their health. Scanner data is available daily, foot traffic is counted weekly, and as more and more customer activity moved to the Internet, that data could be parsed instantly. However, there was at the time the invention was filed no obvious, practical, or technically feasible way to correlate this increasingly real-time data set of business results to individual advertisements of the multi-media advertising messages designed to trigger them. For example, if you bought product X, was it the newspaper ad, a TV commercial, an internet ad or a combination that deserves credit? The present invention had the solution to that problem by granular data capture of all marketing stimuli and of business results. ["Granular Data" refers to finely itemized data. For example, it's one thing to know how many sales you did in a day. It's another to break it out by minute and by item purchased. Then you can look back at what product was mentioned in what ad, when, and shown to whom, and then apply the cost to provide a dashboard report.] Processing and evaluating this data by standard means (i.e., regression analysis and chronological modeling) allows the marketer to read which specific marketing investment in the multi-media ad campaign was working the best at a desired business goal. The limitations of the state of the art, especially with respect to capture of granular performance data at the time the invention was filed, taught away from and caused even the most experienced of advertising professionals not to think of ongoing measurement of their offline media components of their multi-media ad campaigns, and not to think of real-time evaluating, reacting, and modifying any ongoing offline multi-media ad portfolio component in view of desired business objective(s)." Even today evaluation of multi-media ad campaigns is a difficult chore, but a viable process and method was foreseen by the present invention, and if it had been available in 2001 it would have been useful as there was a need for assessment of all media components of multi-media ad campaigns relative to business objectives..

6 THAT in my opinion neither the teaching of the cited art, nor any other art that I am aware

of at that time, nor the general knowledge of those in the art, provide the invention, or suggest any motivation to modify or combine any knowledge or art at the time the invention was made, with any reasonable expectation of success to arrive at the present invention.

7. THAT in my opinion there is no reason that would lead a person of ordinary skill in the art in 2001 to combine the prior art elements in the claimed manner and to fill gaps in the art; that it is not correct to contend that real-time data provided by internet media technology is comparable to the limited availability of post-campaign offline media data in 2001; that in 2001 offline media granular data necessary to reach the claimed multi-media invention was functionally unavailable; that reconstruction of the key elements of the invention is possible only in view of currently available data and technology and the combination in my opinion would not have occurred in 2001;

8. THAT it would not be obvious to one skilled in the art to combine the internet teachings of d'Eon and Robinson with the computer system of Cannon to arrive at the present invention, and this combination does not in fact produce the invention;

9. THAT the present invention claiming a unified system for tracking, evaluating, constantly updating and reacting interactively on an ongoing basis to selected individual media in a multiple-media advertising types measured against their ability to drive business objectives with reporting combined into a single dashboard view analyzed and optimized in real time was not taught by the prior art of record nor the general knowledge of those in the art, and the art does not suggest any motivation to modify or combine any knowledge or art at the time the invention was made, with any reasonable expectation of success to arrive at the present invention;

10. THAT it was neither practiced, nor likely even considered possible or practical, at the time the invention was made, to build marketing reporting and performance optimizing dashboards that give Brands an all-up coordinated view on how their various tactics are doing, to provide real time correlation of each and every medium of multi-channel marketing investments to business objectives, and to have these dashboards pull from various data sources (i.e., media contracts, media delivery information, survey information, call center volume, store foot traffic, sales scanner data, focus group responses, or web site traffic or combinations thereof);

11. THAT there is a great distinction between data acquisition from technology applicable to the internet medium and data availability from technology then current with offline media at the time the invention was filed and it is not correct to state or imply comparability;

12. THAT I am not aware of any interrelated teachings from patents, from technical publications, from the marketplace, or from the background knowledge of individuals of ordinary skill in the art, that would give any reason for a person of ordinary skill in the advertising art to combine art elements in the manner claimed by the patent application at issue; and that I am not aware of any reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed; and that I conclude that the invention in the subject Application is neither obvious nor predictable from the cited references;

13. THAT I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Declared at San Francisco, CA, U.S.A. this 9<sup>th</sup> day of Oct, 2007.

  
Joseph Giannantonio